

BOARD FOR BRANCH PILOTS MEETING MINUTES

The Virginia Board for Branch Pilots met on Tuesday, February 2, 2010, at the Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia, with the following members present:

Captain Robert H. Callis, III
Bruce R. Cherry
Captain J. William Cofer
Captain Milton B. Edmunds
Thomas P. Host, III
William M. Martin, III
Captain John A. Morgan, Jr.
Meade G. Stone, Jr.

Staff present for the meeting were:

Jay DeBoer, Director
Mark N. Courtney, Deputy Director of Licensing and Regulation
Kathleen R. Nosbisch, Executive Director
Nick A. Christner, Deputy Director of Compliance and Investigation

Steven Jack was present from the Office of the Attorney General.

Finding a quorum of the Board present, Mr. Cherry, President, called the meeting to order at 9:35 a.m.

Call to Order

Captain Callis moved to approve the agenda. Mr. Stone seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan, and Stone.

Approval of Agenda

Mr. Host arrived at 9:40 a.m.

Arrival of Mr. Host

Ms. Nosbisch introduced Mr. Steven Jack, Office of the Attorney General.

Introduction of Steven Jack, Office of the Attorney General

Captain Cofer moved to approve the minutes from the December 15, 2009, Board Meeting. Captain Callis seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan, and Stone.

Approval of Minutes

Ms. Nosbisch read correspondence received from Mr. Douglas Miller regarding his resignation from the Board due to his recent appointment as Magistrate for the United States Federal Court, Eastern District of Virginia.

Resignation of Board Member Douglas Miller

Captain Callis provided the Board with a report of the examinations conducted by the Examination Administrators on February 1, 2010. The following report was made:

Exam
Administration
Report

Adam L. Halstead

Captain Halstead answered oral questions related to the raise in grade. The subjects included safe anchoring positions in Lynnhaven, Sewell's Point, and Newport News, safe vessel speed, emergency anchoring techniques, the role and proper use of a lookout, air draft considerations and calculations, and the discretionary authority of a pilot. Captain Halstead stood a good examination and was found to be qualified. Captain Callis moved that Captain Halstead be raised from the Bravo classification (24,000 gross tons and 28 feet maximum draft) to a Charlie classification (28,000 gross tons and 30 feet maximum draft). Mr. Host seconded the motion which was approved by Messrs. and Captains: Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan, and Stone.

Charles A. Huffman

Captain Huffman answered oral questions related to the raise in grade. The subjects included safe anchoring positions in Lynnhaven, Sewell's Point, and Newport News, safe vessel speed, emergency anchoring techniques, the role and proper use of a lookout, air draft considerations and calculations, and the discretionary authority of a pilot. Captain Huffman stood a good examination and was found to be qualified. Captain Callis moved that Captain Huffman be raised from the Bravo classification (24,000 gross tons and 28 feet maximum draft) to a Charlie classification (28,000 gross tons and 30 feet maximum draft). Mr. Stone seconded the motion which was approved by Messrs. and Captains: Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan and Stone.

January N. Collins

Captain Collins answered oral questions related to the raise in grade. The subjects included safe anchoring positions in Lynnhaven, Sewell's Point and Newport News, safe vessel speed, overtaking situations, air draft considerations and calculations, the effects of salinity fluctuation, and the discretionary authority of a pilot. Captain Collins stood a good examination and was found to be qualified. Captain Collins has acquired her First Class Federal Pilot's License pursuant to 18VAC45-20-10. Captain Callis moved that Captain Collins be raised from the Delta classification (32,000 gross tons and 32 feet maximum draft) to the Echo classification (36,000 gross tons and 34 feet maximum draft). Mr. Host seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Cofer,

Edmunds, Host, Martin, Morgan and Stone.

Benjamin L. Speckhart

Captain Speckhart answered oral questions related to the raise in grade. The subjects included safe anchoring positions in Lynnhaven, Sewell's Point and Newport News, safe vessel speed, overtaking situations, air draft considerations and calculations, the effects of salinity fluctuation, and the discretionary authority of a pilot. Captain Speckhart stood a good examination and was found to be qualified. Captain Speckhart has acquired his First Class Federal Pilot's License pursuant to 18VAC45-20-10.

Captain Callis moved that Captain Speckhart be raised from the Delta classification (32,000 gross tons and 32 feet maximum draft) to the Echo classification (36,000 gross tons and 34 feet maximum draft). Mr. Stone seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan and Stone.

Mr. Host recused himself from the meeting and left the room as the company he works for, T. Parker Host, Inc., was the agent for the ship involved in the incident letter from Captain Speckhart.

**Recusal of Mr.
Host**

The Board reviewed a letter from Captain Speckhart regarding an incident on December 10, 2009, involving the M/V ICE PEARL.

**Captain Benjamin
L. Speckhart –
M/V ICE PEARL**

On the 10th of December 2009, Captain Speckhart was ordered to the M/V ICE PEARL at 0945 from Chesapeake Energy Center (CEC) on the Southern Branch of the Elizabeth River to Pier N at Lambert's Point Docks. Captain Speckhart boarded the vessel at approximately 0915. The Master of the ship presented him with the vessel's particulars and the pilot card. Captain Speckhart reviewed the pilot card and conducted a verbal Master/Pilot exchange. The Master reported that the ship's navigational and mechanical systems were in good working order. Captain Speckhart noted from the Pilot Card that vessels length was 600' 03", its beam was 95' 2", the vessels draft was 24' 5", and the vessels air draft was approximately 130'. Captain Speckhart then proceeded to call Joint Harbor Operation Center (JHOC) on VHF FM Channel 12 to request permission to get underway from CEC and proceed to Pier N at Lambert's Point Docks. The JHOC watch stander granted the vessel permission to get underway. Captain Speckhart also called the Norfolk Southern Bridge #5 Bridge Tender to verify that Norfolk Southern Bridge #7 would remain open until the vessel had passed safely through the bridge. The bridge tender informed him that a train was coming, but that the bridge would remain open until the ship passed. Captain Speckhart relayed this information to the docking master Captain Mark Scanlon.

Captain Scanlon ordered the tugboat APRIL MORAN to make her line fast to the vessel's after leading center chock, the tug SURRIE MORAN to make her line fast to the bow's center leading chock, and the tug TOWN POINT to position herself amidships on the port side with no line working ahead easy to hold the vessel to the berth. Once the Master, the docking master and Captain Speckhart were in agreement to get underway, the docking master gave the order to single up all lines. Captain Speckhart proceeded to give a security call on VHF-FM Channel 13 to announce that the vessel would be getting underway from CEC and proceeding outbound through the Gilmerton Highway Bridge. Once all lines were singled up, the docking master gave the command to take in all lines. After all lines were on board the vessel, the docking master began to maneuver the vessel away from the berth with the assistance of the tugs, the ship's engine and the rudder. Once off the pier, the tug TOWN POINT repositioned itself on the starboard bow of the vessel.

The docking master maneuvered the vessel off the berth and began backing the vessel toward the Gilmerton Highway Bridge. When the vessel was at the centerline of the two bridges and the docking master was satisfied with the vessel's position in relation to the bridges, the Gilmerton Highway Bridge was contacted on VHF- FM Channel 13 to request a bridge opening. The bridge tender answered and began a bridge lift immediately after the request.

Once the bridge span was open, the docking master began to back the vessel through the two bridges. The vessel was well aligned and in good position to transit through the bridges. The speed of the vessel as it was backing through the bridges was approximately 1.0 knot. At approximately 1020, the vessel starboard bridge wing lightly scraped the western span of the Gilmerton Bridge. The duration of the contact was less than 5 seconds and left only minor cosmetic damage on the starboard wing of the ship. From Captain Speckhart's point of view, the Gilmerton Highway Bridge seemed as if it had sustained no major damage. When they touched the bridge, the Master, Captain Scanlon and Captain Speckhart noted that the ship was at least one meter off the fendering on the Gilmerton Highway Bridge. The ICE PEARL never touched the bridge fender system. They believed that the bridge may not have been in the full open position and that may have contributed to the incident. The wind speed at the time of the incident was approximately 20 knots from the WNW. The velocity of the current at the time of the incident was approximately .1 knots (flood) or less. After the incident, Captain Scanlon continued to maneuver the vessel through the two bridges, on to Pier N at Lambert's Point Docks with no further issues.

Captain Cofer will inquire about the dimensions for the full open position of the Gilmerton Highway Bridge and report his finding to the Board.

After review and discussion, Mr. Martin moved that the letter be filed and that the Board take no action, as there appears to be no violation of the Board's regulations or statutes. Mr. Stone seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Cofer, Edmunds, Martin, Morgan and Stone.

Mr. Host returned to the meeting.

Mr. Walter Hugh McCrory, Jr. and Mr. Robert McFarland, counsel for Mr. McCrory were present for this matter.

At 9:50 a.m., Captain Edmunds moved that the Board for Branch Pilots convene a closed session under the Virginia Freedom of Information Act to confer with legal counsel relating to the Application for License of Walter Hugh McCrory, Jr., a matter lawfully exempted from open meeting requirements under the "consultation with legal counsel" exemption contained in §2.2-3711.A.7 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Steven Jack, Kate Nosbisch, Jay DeBoer, Nick Christner and Mark Courtney. Captain Morgan seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan and Stone.

Captain J. William Cofer recused himself from the meeting.

At 11:03 a.m., the closed session was adjourned and the Board immediately reconvened in open session.

Return of Mr. Host

Consideration of Application for Licensure: Walter Hugh McCrory, Jr.

Closed Session - Consideration of Application for Licensure: Walter Hugh McCrory, Jr.

Open Meeting

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board for Branch Pilots has convened a closed meeting on this date pursuant to an affirmative recorded vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, §2.2-3712 of the *Code of Virginia* requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board certifies that, to the best of each member's knowledge, (I) only public business matters lawfully exempted from open session requirements by Virginia law were discussed in the closed meeting to which the certification applies, and (II) only such business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

VOTE: 7-0

AYES: Callis, Cherry, Edmunds, Host, Martin, Morgan and Stone.

NAYS: 0

ABSENT FROM MEETING: 1 – Cofer

Mr. Martin moved for the Board to waive the Informal Fact-Finding Conference per §2.2-4019 of the *Code of Virginia* in the matter of consideration for licensure for Walter Hugh McCrory, Jr., and proceed to a formal hearing under §2.2-4020 of the *Code of Virginia*. Mr. Stone seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Edmunds, Host, Martin, Morgan and Stone.

Captain Cofer returned to the meeting.

Return of Captain Cofer

Ms. Nosbisch informed the Board that the proposed regulations were not finalized and submitted within the required 180 days of the end of the comment period. Ms. Nosbisch requested that the Board rescind the current Notice of Intended Regulatory Action (NOIRA) and move to file a new NOIRA. Mr. Martin moved to rescind the NOIRA. Captain Callis seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan and Stone.

Regulatory Review Update

Mr. Martin moved to file a new NOIRA. Mr. Host seconded the motion which was unanimously approved by Messrs. and Captains: Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan, and Stone.

By consensus, the Board agreed to present a resolution in honor of Mr. Douglas Miller at the next board meeting.

Other Business

Conflict of Interest forms were completed by all members present.

Conflict of Interest Forms

The Board members recessed from 11:12 a.m. until 11:24 a.m.

Recess

Mr. Jack, board counsel, explained to Mr. McFarland and Mr. McCrory, the options available to Mr. McCrory under the Administrative Process Act. Mr. McFarland and Mr. McCrory agreed to waive an Informal Fact-Finding conference, and proceed with a formal hearing.

Consideration of Application for Licensure: Walter Hugh McCrory, Jr.

There being no further business, the meeting was adjourned at 11:27 a.m.

Adjourn

Bruce R. Cherry, President

Jay W. DeBoer, Secretary

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